

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on February 9, 2001 at 3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Thomas, Chairman (R)
Rep. Roy Brown, Vice Chairman (R)
Rep. Trudi Schmidt, Vice Chairman (D)
Rep. Tom Dell (D)
Rep. John Esp (R)
Rep. Tom Facey (D)
Rep. Daniel Fuchs (R)
Rep. Dennis Himmelberger (R)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Jim Shockley (R)
Rep. James Whitaker (R)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 482 Posted 2/5/01, HB 478
Posted 2/5/01, HJ 17 Posted
2/5/01,
Executive Action: HB 237, HB 395, HB 316, HJ 17

HEARING ON HB 482

Sponsor: Rep. Kim Gillen, HD 11 {Tape : 1; Side : A; Approx. Time Counter : 0 - 4}

Proponents: Dr. Pat Cobb, Ed Eaton, Jim Ahrens, Janie McCall, Beta Lovett, Sami Butler

Opponents: None

Opening Statement by Sponsor: Rep. Kim Gillen, HD 11 in the Billing Heights and am a neighbor to Rep. Fuchs House District, introduced HB 482, HB 482 would dedicate a portion of the funds that have been approved by the voters to put into the tobacco settlement trust fund. A portion of those funds would be dedicated, actually two million dollars to provide funding for national clinical drug trials of Montanans who are cancer patients. We know that there will be many proposals this year, this session on how to spend the tobacco settlement trust fund interest. I think you should give serious consideration to HB 482. There is a very compelling reason for that we need to provide a dedicated source of Montana revenue to insure that Montanans can participate in cancer trials. Under this bill and what this allocation of resources will do, for every dollar of Montana money that we can access we can attract 6 dollars of National Cancer Institute money which will go to drug trials. The reason the cancer trials are so important is that Montanans who have cancer often want to participate in experimental cures, but experimental trials, the challenge is that we in Montana are far away from some of the large university hospitals as well as far away from the National Cancer Institute. We have been fortunate enough, since 1995 a consortium of oncologists have basically reached into their own pockets to provide resources which are then matched with resources from the National Cancer Institute, to allow Montanans to stay in Montana and participate in these clinical trials. Now that the voters have established the trust it is important to use these dollars for health care related initiatives and programs. House Bill 482 specifically does that and I hope you will give it serious consideration.

Proponents' Testimony:

Dr. Pat Cobb, Oncologist, Billings, Montana and represent the Montana Cancer Consortium, it is an organization that is committed to facilitating state of the art cancer treatment trials to patients in our state. This membership consists of the medical and radiation oncologists in the State of Montana. Since 1995 we joined together to volunteer a group to facilitate enrollment of our patients in clinical trials that are set up a national scale. Since the founding of our group the MCC has enrolled over a

thousand cancer patients on national studies. This ranks us ahead of such university studies, such as the university of Arizona, University of Utah, even puts us ahead of the UCLA as far as patient accrual. In addition to our patient treatment trials we also have several cancer prevention trials that we have completed. Breast cancer prevention trial we are currently involved in a prostate cancer prevention trial and there is a lung cancer prevention trial as well. Enrollment in an oncology clinical trial does not increase the cost of care to the patient. Experimental drugs are provided to the patients for free. The cancer patients directly benefit from the latest advances in oncology care and the data from these trials are submitted to central office where they are combined with other centers for analysis. The MCC is one of only 50 community clinical oncology projects, we call that CCOP for short, that are funded by the MCC. We receive this funding about 3 years ago and this goes on for a 5 year grant. We had to compete with other sites around the country. The NCI was impressed by our large number of patients that we have been able to enroll, so they were willing to fund our research group. That is the good news, the bad news is that despite funding from this federal source the money from the NCI makes up just over one-half of the expenditures that are spent by our consortium. The NCI provides by their formula- they provide seventy percent of what they believe is reasonable to keep a CCOP functioning. However, there is a large gap between what the NCI agrees is reasonable and what the realities are for running a statewide clinical trial consortium in Montana. With the current pressures on Congress to cut spending we are anticipating further cuts as far as the NCI is concerned in the next several years. In the past the shortfalls in federal funding from the NCI were made up by participation in other pharmaceutical trials by myself and my partners in my private practice in Billings. All the money from those trials were turned back into the Montana Cancer Consortium to pay for our staff of data managers. Unfortunately, these outside pharmaceutical trial monies are beginning to dry up and they are not expected to keep up with our needs in the future. The situation is compounded by the NCIs requirement that we participate in these cancer prevention trials. Yet they don't give us any extra money to support that research. The NCI is also required the use of the electronic data submission over the internet and they required us to buy extra computer equipment to handle this. I am sure you are aware of the term "Unfunded mandates" and this is one of the unfunded mandates that the NCI has brought upon us and this has brought us to somewhat of a crisis point. The association of cigarette smoking to many types of cancer is well known and I don't have to lecture you about that. Among smokers there is marked increase in the incidents of cancer of the lungs, bladder, pancreas, the head, neck and throat. The link between cigarette smoking and cancer was one of the main reasons that cigarette manufacturers settled the lawsuits brought by the State Attorney Generals. In Montana every year there are

over one thousand smoking associated cancers per year. Clearly cigarette induced cancer effects many individuals in many families of our state. With the passage of C 35 in November, the Montana voters sent a strong message, that they intended that a portion of the money generated from the tobacco settlement to go toward the victims of cigarette associated disease. We propose that part of the trust fund be set aside to support clinical research to help the people that are most affected by tobacco use. Those people who have been diagnosed with cancer. This legislation would set aside two million dollars of the tobacco trust fund to generate interest and income to support the work of the Montana Cancer Consortium. These funds would offset incomplete funding from the federal government, they would create new jobs for Montanans and they would allow this vital research to continue. The MCC allows cancer patients to be treated here with state of the art oncology treatments, while allowing them to stay in Montana close to their family and support groups. With the passage of this legislation the MCC can expand our efforts in this State, including outreach efforts on the Indian reservations and in more rural areas. Mr. Chairman it is both right and proper to dedicate a small portion of the trust fund to fighting cancer, the disease that is most closely associated with cigarette smoking. Thank you. **{Tape : 1; Side : A; Approx. Time Counter : 4 - 10.5}**

Ed Eaton, American Association of Retired People, and we in support of any use of the tobacco funding for health purposes. When this can be allied with additional dollars, we are even more supportive. **{Tape : 1; Side : A; Approx. Time Counter : 10.5 - 11.2}**

Jim Ahrens, President of Montana Hospital Association, also the Chairman of the Alliance for Healthy Montana and some of you might be familiar with that group. This group put together the initiative C-35. This initiative received the highest percentage of any voters on the ballot. We support this issue. **{Tape : 1; Side : A; Approx. Time Counter : 11.2 - 12}**

Janie McCall, Billings Deaconess Hospital, in cancer program since 1978 and they receive about \$28,000.00 from the consortium that was referred to earlier. They support Rep. Gillen's bill. **{Tape : 1; Side : A; Approx. Time Counter : 12 - 13.1}**

Beda Lovett, Montana Medical Association, Support the Cancer Consortium-clear that Montanans want this money to go to health causes. **{Tape : 1; Side : A; Approx. Time Counter : 13.1 - 15.4}**

Sami Butler, Montana Nurses Association, support this bill. **{Tape : 1; Side : A; Approx. Time Counter : 15.4 - 16}**

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

Rep. Esp asks sponsor: How much interest do you estimate that the interest will be the first two years. Answer: \$125,000.00

Rep. Schmidt to sponsor: Is this MCC, does this include other hospitals in Montana or any others outside of Billings? Answer: Dr. Cobb, all of the hospitals and cancer programs in Montana are members of the MCC.

Rep. Dell question Dr. Cobb: Your testimony said that current pressures of Congress to cut spending we are participating further cuts from NCI. Answer: Current situation in Congress dictates cuts.

Rep. Noennig asks sponsor: Is this money in the Governors current budget already allocated? Answer: No, that is not my understanding- I have asked and have no clear picture.

Rep Schmidt asks Ahrens: Is the monies allocated? Answer: Is the monies spent, I think the interest monies is already in the budget, but I cannot verify this.

Sponsor answer and explains they way the NCI grants funds are allocated.

Closing by Sponsor: Rep. Kim Gillen, Thanks for a good hearing and please give it a due past. Please give all proposals the chance to be sorted out in appropriations. This bill gives Montanans a chance to get treatment in home and not have to travel outside of Montana.

HEARING ON HB 478

Sponsor: Rep. George Golie, HD 44

Proponents: Dr. Cheryl Reichert, Dr. Arlene Reichert

Opponents: Sami Butler, Dr. Patrick Cobb, Drew Dawson, Beda Lovitt, Patricia Butterfield, Dick Paulson, Rep. Gail Gutsche, Wade Sicorsky, Jim Ahrens,

Opening Statement by Sponsor: Rep. George Golie, HD 44 introduced HB 478. This bill seeks to modify current reporting requirements for the Montana Central Tumor Registry. I wish to do this for two reasons: to assure patient privacy and to limit reporting requirements to hospitals only, thereby eliminating the

requirement for reporting by private labs. {Tape : 1; Side : A;
Approx. Time Counter : 26 - 30}

Note Tape 1 B is purposely blank-it twisted upon loading.

Proponents' Testimony: Dr. Cheryl Reichert, Physician, The goal of this bill is ensure patient confidentiality and to eliminate the time consuming and often duplicate reporting requirements for doctors, private labs, and small hospitals. Exhibit 1 is written copy of her testimony. Now the medical history of patients can be sent by computer and is no longer confidential. Someone who is curious does not have access to these records. {Tape : 2; Side : A;
Approx. Time Counter : 0 - 8.7} **EXHIBIT(huh33a01),**
EXHIBIT(huh33a02)

Arlene Reichert, Physician, She established the Tumor Registry when she was a legislature. She is concerned with privacy issue, this board was designed to share information only-but with the computer age the confidentiality is jeopardized.

Opponents' Testimony: Drew Dawson, Chief of Health Systems Bureau, State of Montana, DPPHS, Tumor Registry is maintained in this bureau. Cancer is the second leading cause of death and that makes it a public issue. Data is necessary to help fight cancer and used to monitor cases. Do not pass. The department investigated 12 primary clusters. {Tape : 2; Side : A; **Approx. Time Counter : 8.7 - 17.6}** **EXHIBIT(huh33a03) EXHIBIT(huh33a04)**

Rep. Gail Gutsche, HD 66, Missoula-opposed this bill as she has a bill that conflicts with her bill. She is carrying a bill to expand the tumor registry. {Tape : 2; Side : A; **Approx. Time Counter : 17.6 - 19.2}**

Patricia Butterfield, medical student, opposes two issues: the need to report and the need to protect privacy. Reducing reporting burden would limit the data available. Incomplete data is useless. The right to privacy is not in jeopardy. {Tape : 2; Side : A;
Approx. Time Counter : 19.2 - 26.1} **EXHIBIT(huh33a05)**

Dr. Patrick Cobb, MCC, tumor board is important and we need data. {Tape : 2; Side : A; **Approx. Time Counter : 26.1 - 27}**
EXHIBIT(huh33a06)

Dick Paulson, Executive Director of Montana American Lung Association, need our tumor board and cannot be compared to the national level. {Tape : 2; Side : A; **Approx. Time Counter : 27 - 27.5}**

Beda Lovett, Montana Medical Association, support this bill. Represents Mountain Pacific Quality Health Foundation as opponent, this bill would make data useless. **{Tape : 2; Side : A; Approx. Time Counter : 27.5 - 28.7}**

Wade Sicorsky, Southeastern Montana resident, has used the tumor residency. Says privacy is protected. **{Tape : 2; Side : A; Approx. Time Counter : 28.7 - 30} {Tape : 2; Side : B; Approx. Time Counter : 0 - 1}**

Sami Butler, Montana Nurses Association, opposes this bill. **{Tape : 2; Side : B; Approx. Time Counter : 1 - 3.1}**

Jim Ahrens, Montana Hospital Association, we oppose this bill, the right to privacy is no longer a priority if you have cancer. **{Tape : 2; Side : B; Approx. Time Counter : 3.1 - 5.5}**

Informational Testimony: None

Questions from Committee Members and Responses: Rep. Rice asked Drew Dawson, Cost of tumor registry, the cost is about 250,000.00 a year with 175,000.00 a year.

Rep. Noennig asks Drew Dawson: Have you seen Dr. Reichert form, is everything necessary for information, especially social security number. Answer: Guidelines are consistent with federal regulations and data sets. Will look at ways to reduce reporting and paperwork.

Noenning asks Dr. Reichert is there some particular problem with privacy and what are they. The group received a letter from the DPPHS advising they were not doing things quite right. Discussion here today we are outnumbered. Example: a nurse worked with a doctor and acquired Hepatitis C and it was sent to the State and it was sent to the County and she was interviewed before she got the results.

Rep. Whitaker asks Butterfield, why are we missing 25% of information? That would happen if this bill passes. **{Tape : 2; Side : B; Approx. Time Counter : 5.5 - 16.7}**

Closing by Sponsor: Rep. Golie closed. Please be aware of legislative intent, the intent is not to reduce information, but to reduce duplication and less paperwork. If you are a patient your cancer will be reported. We do not need to use social security numbers and that jeopardizes personal privacy. Also what is the

cost to the patient and the insurance company. **{Tape : 2; Side : B; Approx. Time Counter : 16.7 - 20}**

HEARING ON HJ 17

Sponsor: Rep. Brad Newman, HD 38

Proponents: None

Opponents: None

Opening Statement by Sponsor: Rep. Brad Newman, hd 38 introduced HJ 17, which asks for an interim study on how we manage juvenile detention in Montana. This is a direct result of a legislative audit division study of secure juvenile detention in the State of Montana. High Points: Counties are responsible for providing juvenile detention facilities, Board of Crime Control is responsible for oversight of the process used for allocating state funding to the counties and for monitoring and compliance with State and Federal regulations. Dept of Corrections is responsible for actually licensing the facilities. Officials from the agencies are concerned over all the different agencies having some say in the process. **{Tape : 2; Side : B; Approx. Time Counter : 20 - 28.6}**

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor: Rep. Brad Newman closed-no comments. **{Tape : 2; Side : B; Approx. Time Counter : 28.6 - 30} {Tape : 3; Side : A; Approx. Time Counter : 0 - 2}**

EXECUTIVE ACTION ON HB 395

Motion: REP. THOMAS moved that HB 395 DO PASS. **{Tape : 3; Side : A; Approx. Time Counter : 2 - 4.5}**

Discussion: None

Motion/Vote: REP. THOMAS moved that HB 395 BE AMENDED. Motion carried 16-0. {Tape : 3; Side : A; Approx. Time Counter : 4.5 - 6.5} **EXHIBIT** (huh33a07)

Discussion: {Tape : 3; Side : A; Approx. Time Counter : 6.5 - 12.5}

Motion/Vote: REP. THOMAS moved that HB 395 DO PASS AS AMENDED. Motion carried 18-0. {Tape : 3; Side : A; Approx. Time Counter : 12.5 - 18.3}

EXECUTIVE ACTION ON HB 237

Motion: REP. DELL moved that HB 237 DO PASS. {Tape : 3; Side : A; Approx. Time Counter : 18.3 - 19}

Motion/Vote: REP. FACEY made a motion that HB 237 BE AMENDED. {Tape : 3; Side : A; Approx. Time Counter : 19 - 21.3}

Substitute Motion/Vote: REP. NOENNIG made a substitute motion that HB 237 BE AMENDED. Substitute motion carried 18-0. {Tape : 3; Side : A; Approx. Time Counter : 21.3 - 30}

Motion/Vote: REP. NOENNIG moved that HB 237 BE AMENDED. Motion carried 17-1 with Esp voting no. {Tape : 3; Side : B; Approx. Time Counter : 0 - 2.8}

Motion/Vote: REP. ESP moved that HB 237 BE TABLED. Motion carried 12-6 with Dell, Schmidt, Facey, Schrupp, Raser and Newman voting no. {Tape : 3; Side : B; Approx. Time Counter : 2.8 - 6}

EXECUTIVE ACTION ON HB 316

Motion: REP. NEWMAN moved that HB 316 DO PASS. {Tape : 3; Side : B; Approx. Time Counter : 6 - 7}

Substitute Motion/Vote: REP. FACEY made a substitute motion that HB 316 BE TABLED. Substitute motion carried 18-0. {Tape : 3; Side : B; Approx. Time Counter : 7 - 11.9}

EXECUTIVE ACTION ON HJ 17

Motion/Vote: REP. JENT moved that HJ 17 DO PASS. Motion carried 18-0. {Tape : 3; Side : B; Approx. Time Counter : 11.9 - 12.3}

ADJOURNMENT

Adjournment: 7:20 P.M.

REP. BILL THOMAS, Chairman

PATI O'REILLY, Secretary

BT/PO/JB

Jan Brown transcribed these minutes.

EXHIBIT (huh33aad)